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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 3628
: Examiner: Eric Liou
Ira R. Forman et al. : Intellectual Property
Serial No: 10/675,675 : Law Department
Filed: 09/30/2003 : International Business
Title: DISTRIBUTED COMPUTING : Machines Corporation
CONNECTED VIA THE WORLD WIDE : Customer No. 25,299
WEB WITH A SYSTEM FOR : Confirmation No. 6754

TRACKING THE DISTRIBUTION OF :
COMPUTER POWER FROM CLIENT :
PROVIDERS TO CONSUMERS SO AS :
TO COMPENSATE PROVIDERS AND :
BILL USER CONSUMERS :
Date: 6/15/08 :

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF ON APPEAL

Sir:

This is a Reply Brief to the Examiner's Answer mailed April 14, 2008.

In the Answer, the Examiner makes a variation in the argument with respect to the teaching of the basic McKnight (US2002/0165819) reference which Appellants wish to respond to.

Appellants basic argument with respect to the rejection of independent claims 1, 8, and 21 under 35 U.S.C. 102(e) is

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that the anticipating reference must teach every element of the claimed invention substantially without modification. McKnight fails to teach any implementation disclosing every element of the claimed invention.

In the Brief on Appeal, Appellants argued that McKnight failed to teach an embodiment wherein:

- each of the client stations providing power permits the power service broker access, via the Web, to their available computer power, and

- the broker then distributes, via the Web, to these client stations (providing the computer power) a process enabling the broker to access the computer power of a client station. (These elements are in each of independent claims 1, 8, and 21)

In the Examiner's Answer on Appeal, Examiner points to Figure 1 in McKnight as described in paragraph 0016, wherein it is set forth that the system manager (i.e. broker) itself may also provide some system resources. Examiner argues that this is a teaching that the manager i.e. broker may distribute a process to the client stations providing the computer power which permits the broker to access the computer power of the client station.

Such an interpretation would be completely contrary to the disclosure of paragraph 0016 in McKnight. This teaching in McKnight refers to computer resources [computer power in e.g., present claim 8] provided from McKnight's hosts 102 [client computer stations in claim 8] to McKnight's users [consumer stations in claim 8]. Thus, when McKnight indicates that his manager i.e. broker provides such computing resources on occasion, McKnight is only stating

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that the manager i.e. broker may at times also provide computer power to his users or consumers. Since the resources provided by McKnight's manager or broker is computer power, this would not disclose a process provided to one of his hosts by the manager for any purpose. This remote interpretation of the disclosure does not teach the claimed element:

"...distributing through said broker via the Web to said client computer station, a process permitting said computer power service broker to access the computer power of said client station; ..."

It is submitted that paragraph 0016 in McKnight is not a disclosure without modification of this claimed element so as to satisfy the strict requirements of an anticipating reference under 35 U.S.C. 102.

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Accordingly, for the above reasons and for the reasons set forth in the Brief on Appeal, it is respectfully requested that the Final Rejection be reversed, and that claims 1-5, 8-12, and 21-25 be found to be in condition for allowance.

Respectfully submitted,
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